



UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 30 2002

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Antoinette F. Konski
McCutchen Doyle Brown & Enersen LLP
Three Embarcadero Center, Suite 1800
San Francisco CA 94111-4067

Paper No. 36

In re Application of	:	DECISION ON REQUEST
David J. Schanzlin et al	:	TO ACCEPT
Serial No. : 08/993,696	:	PAPER AS BEING
Filed : December 18, 1997	:	TIMELY FILED
For : Radial Intrastromal Corneal Insert	:	

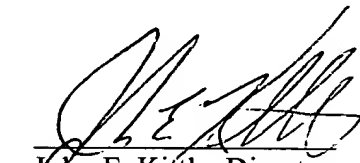
This is a decision on the request filed September 12, 2002 to accept the preliminary amendment adding claims 50-67 and other papers filed therewith via 37 CFR 1.8 on January 7, 2002 as timely filed. There is no fee required for this request.

On April 23, 2002, along with a Request for Continued Examination (RCE), a Preliminary Amendment and Request to Declare Interference Under 37 CFR 1.607 were received via facsimile transmission. The request indicated that the preliminary amendment and request to declare an interference had been previously filed on January 7, 2002. An inspection of the file indicates no receipt of a January 7, 2002 communication from applicant.

On September 12, 2002, the instant request was filed.

Under 37 CFR 1.8(b), correspondence mailed in accordance with 37 CFR 1.8(a), but not received by the Office will be considered timely if the party who forwarded the correspondence: (1) informs the Office of the previous mailing promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing. **The request includes all three items.**

Accordingly, in view of the above, the Preliminary Amendment and Request to Declare Interference Under 37 CFR 1.607 is accorded a filing date as of the date on the certificate of mailing date which is **January 7, 2002.**


John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/9/23/02